

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

JAMES BEDREE,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:04-CV-427-TS
)	
IVAN A. LEBAMOFF et al.,)	
)	
Defendants.)	

OPINION AND ORDER

This matter is before the Court on a Motion for Default Judgment [DE 84], filed by the *pro se* Plaintiff, James Bedree, on September 24, 2007. The basis of the Plaintiff's motion is that the Defendant Judges, Circuit Court Judge Thomas J. Felts, Probate Commissioner Phillip E. Houck, and Superior Court Judge Stanley A. Levine, failed to meet the Court imposed deadline regarding subject matter jurisdiction.

The Plaintiff is mistaken. On April 27, 2007, the court conducted a status conference in which it set June 18 as the Defendants' deadline to file a Rule 12(b) motion to dismiss or otherwise address subject matter jurisdiction. On June 18, the Defendant Judges filed a motion to dismiss the Plaintiff's amended complaint on the basis that the Court lacked jurisdiction over the subject matter [DE 73].¹ The motion meets the qualifications of the Court's April 27, 2007, directive.

¹ On October 12, 2007, the Plaintiff filed a response to the Judicial Defendants' motion to dismiss. In that response, he asserts that he did not receive the Defendants' motion. He also addresses his motion for default, stating that it was based on the "apparent failure" of the Defendants to respond to the Court's deadline. (DE 88 ¶ 4.) Regardless of whether the Plaintiff received a copy of the motion, the Defendants have complied with the Court's directive and default judgment is not appropriate. A motion for default judgment applies to situations where the party against whom relief is sought "has failed to plead or otherwise defend as provided by these rules and the fact is made to appear by affidavit or otherwise." Fed. R. Civ. P. 55. The Defendants have not failed to plead or otherwise defend.

The Plaintiff's Motion for Default Judgment [DE 84] is DENIED.

SO ORDERED on December 20, 2007.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT